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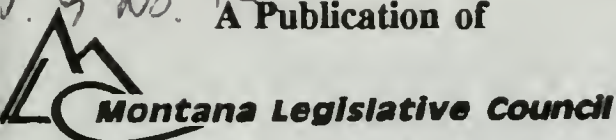
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HELENA, MONTANA 59620

THE INTERIM

JUNE 1994HELENA, MONTANAVOL. IX NO. 13

CAPITOL SECURITY

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TERMINALS

Controlled Access to Capitol Implemented...Following the 1993 Regular Session, a group of people, prompted by concerns with security raised during the Session, began to meet and discuss the status of security in the Capitol complex. Recently, the Department of Administration has undertaken a project to work with agencies on a building-by-building basis. Consequently, change is in the offing. Soon, a policy of controlled access to the Capitol will be implemented. All people entering the building before or after normal business hours (6:00 a.m. to 6:00 p.m., Monday through Friday) will be required to sign in at the security desk and show a state identification card. On June 6, the exterior door locks to the Capitol will be changed. Keys for the main north and south doors will be issued on a selective basis to persons needing access to the building on a regular basis. Others will be able to sign keys out as needed.

Legislators May Receive State I.D. Card...Any legislator is eligible to receive a state identification card. Application cards must be completed and verified and a picture taken by the Department of Administration. The whole process takes but a few minutes. A legislator needing a card should contact the Legislative Council to arrange for it. Arrangements will be made for keys for legislative leadership. Others needing regular or occasional access to the Capitol outside of normal business hours should contact the Legislative Council.

PLEASE RETURN

SUBCOMMITTEE ON WORKERS' COMPENSATION ALTERNATIVES

24-Hour Coverage Subcommittee meets...The Subcommittee on 24-Hour Coverage met on May 20. There was a panel discussion with representatives from the Self-insurers Association, the State Fund, Blue Cross Blue Shield, the Health Care Authority, and the Administrator of the Oregon Workers' Compensation Division.

Subcommittee Hears From Oregon Administrator...Sara Harmon, Administrator of the Workers' Compensation Division of the Oregon Department of Consumer and Business Services presented an overview of 24-hour coverage, the reasons for studying it, and the obstacles to implementing it. She then shared some of the Oregon experience with 24-hour coverage.

Subcommittee to Offer Recommendations in June...The Subcommittee held a general discussion on the direction the members would like to take. The Subcommittee will make its recommendations to the full Subcommittee on Workers' Compensation Alternatives Friday, June 10. The meeting will be held in Room 104 of the Capitol in Helena and is scheduled to begin at 10:00 a.m.

SUBCOMMITTEE ON VETERANS NEEDS

Subcommittee to Meet the End of June...The Subcommittee on Veterans' Needs is scheduled to meet on June 30 in Room 104 of the State Capitol, beginning at 9:00 a.m. The Subcommittee will consider options on the continuum of long-term care, burial benefits, state home loan programs for veterans, and honoraria for Desert Storm and Desert Shield, Panama, Lebanon, and Grenada veterans.

STATE HOUSING TASK FORCE

Task Force Welcomes Two New Members...The State Housing Task Force met on May 2 in Helena. Two new members joined the Task Force at that meeting. Toni Austad and Bonnie Bacon, both representing

the Council for Concerned Citizens from Great Falls, were appointed by Governor Racicot as nonvoting members of the Task Force.

Task Force Hears From Governor's Task Force to Renew Montana Government...Kathy McGowan, chair of the Human Services Subcommittee of the Governor's Task Force, spoke to the Housing Task Force about the recommendation to create a human services department that would be made up of the Departments of Family Services and Social and Rehabilitation Services with some programs from the Departments of Labor and Industry, Corrections and Human Services, and Health and Environmental Sciences also included. In addition, the federal Section 8 housing program, currently administered by the Department of Commerce, would become part of this new department. The philosophy behind the creation of a human services department is self-sufficiency: what a person or family needs in support services in order to be self-sufficient.

Some Housing Task Force members expressed concern over the creation of a "super agency" that included housing programs. While they supported the "one-stop shop" concept, some members wondered if a single application process might be better than rearranging whole agencies.

Ms. McGowan encouraged the Housing Task Force to share its concerns and recommendations with the Governor's Task Force.

Task Force Hears About TSEP...Doug Sternberg gave a staff report on the Treasure State Endowment Program (TSEP). TSEP is part of the Coal Severance Tax Trust Fund. The purpose of TSEP is to assist local governments in funding infrastructure projects, such as drinking water systems, waste water treatment facilities, sanitary sewer or storm sewer systems, solid waste disposal and separation systems, and bridges. Local governments apply to the Department of Commerce for financial assistance from TSEP, and the Department ranks the applications according to the criteria set up in the statutes. The Department then forwards its recommendations to the Governor who, in turn, reviews the recommended projects and submits a list of recommendations to the Legislature. Infrastructure projects necessary for the development of affordable housing are not a statutory priority for TSEP funding; but the statute could be amended to add a new priority. However, with the limited amount of money that is available, projects that address public health and safety issues are the priority at this time.

Task Force Reviews Proposed State Housing Policy...The Task Force reviewed a draft state housing policy statement drafted by Mr. Sternberg. The members asked for some revisions to the policy statement including, removing references to direct state involvement in the development, construction, ownership, and acquisition of property; stressing the role of private enterprise in developing affordable housing; and acknowledging renters, as well as homeowners, as assets to their communities. It was also stressed that the housing policy should not be a separate piece of

legislation. If the Task Force decides to propose legislation to create a new mechanism for providing housing, then the housing policy could be part of that legislation.

Housing Trust Fund is Debated...Connie Erickson presented a staff report entitled "Housing Trust Funds". The report provided information on what a housing trust fund is, what the key elements of a housing trust fund are, how a housing trust fund campaign is organized, what states are currently operating housing trust funds, and how does a state create a housing trust fund. The four key elements in developing a housing trust fund are: administration, revenue sources, programs, and citizen participation. The Task Force's discussion centered on sources of revenue. Some of the suggestions included a realty transfer tax, interest on real estate escrow accounts, interest on tenant security deposits, bed tax, mineral extraction taxes, excess occupational licensing fees, and Section 8 housing reserves.

The Task Force directed staff to draft a preliminary bill establishing a state housing trust fund. Staff will survey the Task Force members for suggestions regarding the trust fund's administrative structure, funding sources, and programs.

For a complete copy of the report entitled "Housing Trust Funds", contact Connie Erickson at the Legislative Council, 444-3064.

Task Force Discusses Other Issues...In addition to the housing trust fund, the Task Force discussed a linked deposit program whereby the state enters into an agreement with a bank to deposit state funds on the condition that the bank will loan that money out for a specific purpose, in this case affordable housing. Another financing mechanism that was discussed was economically targeted investments using pension funds.

The Task Force also stressed the need to continue discussing the housing delivery system in the state and the regulatory barriers to developing affordable housing.

The Task Force will meet again on June 6 in Room C-209 of the Cogswell Building, beginning at 10:00 a.m.

COMMITTEE ON INDIAN AFFAIRS

Committee Holds Economic Forum...The Committee on Indian Affairs sponsored a forum on economic development on Indian reservations at its meeting on May 6 in Helena. The purpose of the forum was to explore ways in which federal, state, and tribal governments can cooperate in bringing viable economic development to Montana's Indian reservations. Participants included representatives from four of Montana's Indian tribes,

from the Small Business Administration, and from numerous state agencies, including the Department of Commerce, the Department of Transportation, the Department of Agriculture, the Department of Labor and Industry, and the Department of Natural Resources and Conservation.

Tribal Officials Discuss Situation...Tribal representatives discussed economic development activities on their respective reservations. Most of the activity is in the areas of manufacturing, agriculture, and tourism. In the area of manufacturing, many tribal industries are trying to adapt to the downsizing of the U.S. Department of Defense by seeking other markets for their products.

Some of the problems identified by tribal officials included lack of managerial and marketing expertise, counter-productive federal and state policies, lack of access to financial capital, tribal politics mixing with business decisions, isolation, lack of natural resources, and lack of infrastructure.

Tribal officials would like to see some of the coal tax funds used to spur economic development on the reservations. They also recognize the need for tribal government officials to separate themselves from the operation of tribal businesses. While the state and the tribes have begun to work together on economic development activities, there is still a large measure of distrust on the part of tribes regarding the state. However, the tribal officials were pleased that this meeting was held.

State and Federal Officials Offer Support...The representatives of the state and federal agencies attending the meeting discussed the efforts already underway to assist tribal governments in their quest for economic vitality. Travel Montana is currently seeking a grant to fund an Indian Tourism Development Coordinator whose job would be to work with each tribe to develop a tourism plan. The Small Business Development Center is working with the tribal colleges to provide marketing and financing assistance to tribal governments. A new economic development district is being formed in northeastern Montana that will assist the Fort Peck Tribes in obtaining small loans from local banks.

The Department of Transportation sponsored a workshop last year to assist Indian firms in bidding on heavy highway construction projects. The Department is also involved in some follow-up activities of a study that identified products that the State of Montana purchases from out-of-state vendors that Indian manufacturing facilities could produce. The Department of Transportation has also done some work in the area of cultural awareness and education about Montana's Indian population.

The Small Business Administration (SBA) is currently working with the Montana University System to develop some technical assistance training courses for Indian entrepreneurs that would be available free-of-charge on the reservations. SBA is also sponsoring a conference in Billings in June where government procurement officials from all across the nation can view the products produced by Montana's Indian manufacturers.

All of the state and federal officials in attendance expressed a willingness to work with tribal governments and encouraged tribal officials to contact them with their ideas and requests for assistance.

Committee Hears Telecommunications Proposal...The Information Services Division (ISD) of the Department of Administration is seeking a grant to expand and upgrade SUMMITNET, the state's major data communications network. The grant will allow the expansion of SUMMITNET into all seven tribal colleges. ISD felt that this would help alleviate the isolation from which so many reservations suffer, and asked the Committee for a letter of support.

Staff to Prepare Forum Summary...Staff will prepare a document that includes the needs and problems of the reservations and recommendations for legislation that the Committee may want to review. At the direction of the Committee, staff will also write letters of support for the tourism development grant and the telecommunications grant.

Committee to Meet on Reservation...Kermit Horn, Fort Belknap Community Council member, invited the Committee to hold its next meeting at the Fort Belknap Reservation. Staff will work with Mr. Horn to make the necessary plans. The next meeting will probably take place in August.

ADMINISTRATIVE CODE COMMITTEE

Committee to Meet on June 20...The Administrative Code Committee (ACC) will meet on Monday, June 20, beginning at 9 a.m., in Room 108 of the State Capitol. The Committee will hear challenges to three rules.

Board of Pharmacy...At the request of former Representative Dennis Iverson and Helena attorney Ward Shanahan, representing the interests of out-of-state pharmacies mailing pharmaceuticals into Montana, the agenda includes the validity of the Board of Pharmacy rules proposed at page 2073 of Issue 17 of the 1993 MAR and adopted at page 571 of Issue 5 of the 1994 MAR. Mr. Iverson and Mr. Shanahan claim that there is no statutory authority for the rules.

Building Codes Bureau...Also on the agenda is the validity of the last two sentences of subsection (10) of the Department of Commerce Building Codes Bureau's rule ARM 8.70.101. These two sentences state that if vehicles are stored by a garage owner in the garage as part of a commercial enterprise or business, or if a private storage structure is used to store equipment, vehicles, materials, supplies, or products the

owner uses in a commercial enterprise or business, then the garage or storage structure is not a "private garage or private storage structure used only for the owner's own use" within the meaning of the use of that phrase in 50-60-102(1)(a), MCA. That subsection of the MCA states that the state building codes do not apply to a "private garage or private storage structure used only for the owner's own use". James Braning, a resident of Lewis and Clark County, claims to have a "private storage structure" that the Building Codes Bureau will not let him use to store equipment, vehicles, materials, supplies, and products he uses in connection with his sole proprietorship business. His claim raises the following issues:

1. "Owner", as used in the exemption, is defined in 50-60-101(11), MCA, as including a corporation or other business firm. He states that it is obvious that equipment, vehicles, etc. a business puts in its garage or storage structure will be used for commercial or business purposes; therefore, the rule conflicts with the statute and is invalid.
2. Section 50-60-102(1)(a), MCA, also exempts "farm or ranch buildings". The legislature must have known farm and ranch buildings usually contain equipment, vehicles, etc. used in the farm or ranch business, yet did not forbid such items in the building. Therefore, it also did not mean to forbid such items in private garages and private storage structures either, as it would have said so if it did.
3. The words, in the exemption, "owner's own use" do not by themselves limit the use to personal, non-business use, and the Bureau cannot do so in violation of the obvious ordinary meaning as including one's own business purposes use.

Board of Dentistry...The Board of Dentistry proposed rule changes at page 2473 of Issue 20 of the 1993 MAR and adopted the changes at page 1120 of Issue 8 of the 1994 MAR. The rules relate to the functions of dental hygienists and dental assistants. The ACC staff's written review of the proposed rules contained objections which were not adequately addressed by the adoption notice responses to the objections. Ms. Chris Herbert, a dental hygienist representing the Montana Dental Hygienists' Association, has largely the same objections, and the matter is on the meeting agenda at her request.

Committee to Tour the Capitol...Also on the agenda, at the request of Senate President Van Valkenburg and House Speaker Mercer, is a tour of the State Capitol to view the deterioration of the building.

Other Agenda Items...ACC Chairwoman, Rep. Carolyn Squires, has placed on the agenda a staff request that the Committee sponsor a bill

to amend 2-4-305, MCA, (a MAPA section) by adding a subsection (8) that will state that an agency may use an amended proposal notice or the adoption notice to correct deficiencies in the proposal notice in statements of reasonable necessity and in citations of authority for rules and of sections implemented by rules.

Each year, Issues 1 and 13 of the MAR contain a Cross Reference Index showing MCA sections implemented by rules. This index contains numerous errors. At the request of David Niss, Legislative Council Staff Attorney and former Staff Attorney for the Administrative Code Committee, the matter has been put on the agenda, with a view to requesting the Secretary of State to correct the errors and put in place procedures to ensure that future Indexes will be more error-free.

Chairman Squires will attend the National Association of Secretaries of State yearly convention in Kalispell in July to speak, at the Association's request, on administrative rule matters in Montana. The Committee's staff attorney, John MacMaster, will also, at the Association's request, be giving a presentation on administrative rule matters in Montana.

SUBCOMMITTEE ON SCHOOL REVENUE

Subcommittee to Meet in June... Senator Bob Brown has called the third meeting of the Subcommittee on School Revenue for Friday, June 3. The meeting will begin at 9:00 a.m. in Room 108, State Capitol.

The format of the day will be a work session to discuss the following information requested at the last meeting: a report by Madalyn Quinlan, Office of Public Instruction, on equalization of school district revenue when certain nonlevy revenues and centrally-assessed property tax sources are removed as general fund sources; and a report on school expenditure disparity ratios by Jim Standaert, Office of the Legislative Fiscal Analyst.

Subcommittee Narrows Focus of Study... At the March 24 meeting, the Subcommittee decided to narrow the focus of the study to a thorough discussion of the data to be presented June 3 before investigating further changes to the school funding structure and its revenue sources. At this June meeting, the Subcommittee will weigh any school funding equity considerations related to nonlevy revenue and centrally assessed property against the benefits of allowing the current school funding system to exist without significant amendment for a few years. Allowing the existing system to operate without change for a few years will permit affected entities the opportunity to collect comparable

data with which to determine the state's progress toward school funding equity.

COMMITTEE ON CHILDREN AND FAMILIES

Committee Hears About Adult Protective Services...The Committee on Children and Families met at the Capitol on the morning of Wednesday, May 11 to hear a staff report and public testimony on adult protective services in Montana, a study issue raised in Senate Bill No. 2, November 1993 Special Session.

Committee Meets With ICC...On Wednesday afternoon and all day Thursday May 12, the Committee on Children and Families joined the Interagency Coordinating Council (ICC) and 35 invited representatives of various prevention-oriented programs in the state to plan how to better coordinate state prevention efforts and how to meet legislative expectations for the ICC (expressed in Senate Bill No. 34, 1993 Regular Session). The ICC includes the directors of the various state agencies oriented to human service delivery, the attorney general, the state superintendent of schools, the administrator of the Board of Crime Control, and two persons appointed by the Governor who have experience with private or nonprofit prevention programs.

In addition to the primary charge of coordinating and enhancing the state's various prevention programs, the ICC is to prepare a coordinated biennial budget document for use by the governor and the legislature. The ICC has adopted the mission of, "Providing in Montana a prevention system which supports a proactive process of creating and sustaining conditions that address risks and promotes the safety, personal responsibility, and well-being of people".

At the close of the two-day event, participants expressed satisfaction with the consensus-building process that was utilized, and committed to continuing the quest for improving prevention activities in the state. A report on the results of the event will be available from the staff of the Oversight Committee on Children and Families (444-3593).

LEGISLATIVE COUNCIL

Council Meets in May...The Legislative Council met May 13. The Council discussed a number of issues of interest to the Legislature in general.

Council Discusses Bill Processing Changes...Over the current interim, the Legislative Council staff is pursuing a major project to convert the way bills are processed from the mainframe environment used since 1973 to a personal computer environment. The main reasons for making the switch include the fact that the company that provides the mainframe software the Council has been using has refocused its business from one that primarily serves legislatures to one that primarily serves other types of businesses, with less response to legislative needs being a consequence. At the same time, most of the technological investment and improvements offered that are applicable to legislative work are happening in the personal computer area. So while bills processing has required and will continue to require significant expenditures, the Legislative Council will be able to support a number of improvements with cost effectiveness through the changes.

While most improvements in processing will not be visible to anyone but the people using the system, the Council discussed two that will be noticeable. First, the use of a personal computer-based word processing system will provide much greater flexibility in formatting of the final text. The Council reviewed and approved a bill format that will allow printing bills with one page to a face rather than two as is now done without increasing the amount of paper needed to print the bills. This change is achieved by changing the size of the original type face and the line spacing, with a result that is readable and pleasing. This change will eliminate the cumbersome manual process of copying every two pages of an introduced bill to make the two-up version that has become traditional in recent years.

The second change comes with the enrolled version of the bill. No longer will a separate bill history be prepared to attach to the enrolled bill. Bill history is readily available through the bill status system and subsequent publications such as the "History and Final Status". Council inquiry determined that there was no use of the formal history that would justify the extensive effort needed to prepare it. Preparing a bill history for the enrolled bill is a good example of a situation in which good people were working hard to do a good job that did not need to be done, so it was easy for the Council to support this change as well.

The Council asked whether the fiscal note format could be changed so it also would be printed straight up as the bills are. The preliminary indication from the Budget Office is that they have found an attractive format in which to do this.

The change to the personal computer format will also support other special uses such as expanded electronic access to bill text. Conversion of mainframe bill text was tricky and time consuming and the resulting document was poorly formatted, unattractive, and did not look anything like a bill. While there are still obstacles in the way of perfection, the text will be much more accessible to legislators, state agencies, and the public who may find electronic copies of bill text useful.

Council Discusses Legislative Travel Claims...In other business, the Council reviewed and renewed support for the policy for review of travel claims published on pages 14 and 15 of the Interim Study Handbook. All members travelling for legislative meetings should be aware of the policy and submit claims accordingly. If health, safety, or weather factors are a consideration, the member should note that on the claim. It is not the Council's policy to be overly picky, but with budgets being tight and expenditures under close scrutiny, it is important that a consistent and fair set of guidelines be followed. Any member needing a copy of the policy may ask the committee staff or contact the Legislative Council.

LEGISLATIVE FINANCE COMMITTEE

Committee to Meet on June 9 and 10...The Legislative Finance Committee (LFC) will meet at 1:00 p.m. on June 9 and reconvene again at 8:00 a.m. on June 10 in Room 108 of the State Capitol. Reports to be presented by the staff of the Legislative Fiscal Analyst will include:

- general fund/SEA revenue projections;
- proposed budget amendments;
- health care provider rates;
- an update on the Montana Science and Technology Alliance;
- implementation of House Bill 7 (revised budget process for the 1997 biennium); and
- a report on (higher education) tuition appropriation authority.

Subcommittee to Meet...The LFC Subcommittee for Review of Dedicated Revenue Provisions and Statutory Appropriations (Senate Bill No. 378) will meet in the State Capitol on June 9 at 8:00 a.m. in Room 108. Two categories of accounts (User Fee-Not Commensurate and Program Administration/Services) not yet reviewed by the Subcommittee will be discussed. Categories of accounts to be exempt from future SB 378 review will be considered.

The Subcommittee will also review non-specific revenue sources (such as taxes, fines/forfeitures, interest, and investment earnings) for

appropriateness of current allocation and possible de-earmarking. Possible statute changes in the allocation of these revenue sources and in the restructuring provisions of SB 378 may be addressed.

The Subcommittee will review and discuss all statutory appropriations with emphasis placed on those that support general operating expenses and FTE of state government. Guidelines for establishing statutory appropriations will be examined.

Subcommittee Adopts Proposal...The LFC's Subcommittee on Realignment of Joint Appropriations Subcommittees met on May 13 to review the joint appropriation subcommittee structure. The Subcommittee reviewed options developed by the Legislative Fiscal Analyst staff and by members of the Subcommittee. At this meeting the Subcommittee adopted four proposals which will be presented for approval by the full LFC at its meeting June 9 and 10. If adopted by the LFC, these options will then be submitted to legislative leadership for their consideration. The realignment proposals adopted by the study committee are:

- Create a new functional category entitled "Law Enforcement and Public Safety" within the Institutions Subcommittee and move the Department of Justice, Crime Control Division, Highway Traffic Safety Division, Judiciary, and the Department of Military Affairs from the General Government Subcommittee to the Institutions Subcommittee. This would help balance subcommittee workloads and would allow the General Government Subcommittee additional time for a review of fixed costs and agency rates, including information technology issues.
- Divide the budget of Department of Health & Environmental Sciences (DHES) by transferring the DHES environmental programs from the Human Services Subcommittee to the Natural Resources Subcommittee.
- Create a special committee made up of one member of House Appropriations and one member from Senate Finance & Claims and 2 additional members from each legislative body, not members of House Appropriations or Senate Finance & Claims, to hear the Cultural Grants and the budgets of the Library Commission, Arts Council, and the Historical Society.
- Recommend that joint hearings be held by the Human Resources and the Institutions Subcommittees for the following budgets: 1) Department of Corrections & Human Service's mental health program; and 2) Pine Hills School and Mountain View School.

Subcommittee to Meet in June...Senator Harding has scheduled the next meeting of the Subcommittee for June 9 at 9:00 a.m. in Room 437

of the Capitol to hear and discuss any agency or legislative comments and concerns regarding the adopted proposals.

JUDICIAL UNIFICATION AND FINANCE COMMISSION

Commission Develops Preliminary Recommendations...In accordance with the JUFC's enabling legislation (House Bill No. 525), the JUFC has been studying court funding, the potential for state assumption of funding responsibility, and the potential for court unification. While the JUFC has stopped short of developing recommendations to unify the courts or to provide for total state funding, it has determined a need to improve channels of communication between all court levels and to provide for additional state funding of certain expenses.

To achieve its objective of providing for a more equitable and effective delivery of quality judicial services statewide, the JUFC has developed the following preliminary recommendations:

Court Administration

- Establish a Judicial Council to act as a futures planning and advisory council to the Supreme Court.
- Establish 6 judicial administration regions with a Chief District Judge and Chief Clerk of District Court. A regional conference would be held each year for all Magistrates, District Judges, and Clerks of District Court with an Associate Justice of the Supreme Court acting a conference chairperson.
- Retain a seven-member Supreme Court.
- Change "governor" to "chief justice" in sections 3-5-111 and 3-5-112, MCA, so that the Chief Justice rather than the governor is responsible for temporarily assigning judges to handle cases in another judge's jurisdiction.
- Require that elections of Clerks of Court be conducted on a nonpartisan basis.

Court Funding

- Provide for state funding of postconviction relief by amending the criminal reimbursement program to include postconviction relief as a reimbursable expense.
- Provide that the state assume total funding of public defenders and court reporters effective October 1, 1995, with a retroactive applicability date of July 1, 1995. (Counties will be reimbursed by the state for public defender and court reporter expenses incurred from July 1 to October 1, 1995.)
- Recommend state assumption of funding for juvenile probation by 1997.
- Reduce the 0.5% local option vehicle tax to 0.4% and add language stating that the revenue be used first to fund District Court needs. Require that a 0.1% vehicle tax be imposed by each county, with revenue forwarded to the state for state funding of District Courts. (The 0.1% tax is expected to generate \$2.5 million annually.)
- Repeal the termination date (July 1, 1995) on the current distribution of the local option vehicle tax revenue--50% to the county and 50% allocated to the county and cities based on population.

Court Fees

- Raise the fee for filing a motion for judicial substitution from \$100 to \$200 and provide that 50% of the fee go to the state for state funding of the courts.
- Require that after 25 documents have been filed in a case, a \$5 fee be paid by the filer for each additional document filed. Collections must be forwarded to the state for the funding of court automation.
- In District Court, raise the fee for transferring files to another court from \$10 to \$30 and for receiving files from another court from \$5 to \$25.

Commission to Hold Public Hearing...The Judicial Unification and Finance Commission (JUFC) has developed its preliminary recommendations and scheduled a public hearing on the recommendations for Wednesday,

July 13. The hearing will begin at 10:00 a.m. in Room 325 of the Capitol.

Witnesses Encouraged to Sign Up in Advance...To avoid confusion at the hearing, persons interested in testifying are encouraged to sign up in advance of the meeting by contacting Sheri Heffelfinger or Stephen Maly at 444-3064. Those signing up in advance will be scheduled on the agenda. Those who do not sign up in advance may testify after those who have. A final agenda, as well as bill drafts for discussion purposes, will be available from the Legislative Council by July 1. An agenda will also be posted on the state bulletin board.

Commission to Finalize Recommendations...The JUFC will meet after the public hearing to work on finalizing its recommendations. The JUFC is planning to hold its final meeting in August.

For more information, please contact Sheri Heffelfinger, Stephen Maly, or Ellen Garrity at the Legislative Council.

COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEMS

Committee Soliciting Legislative Proposals...The Committee on Public Employee Retirement Systems (CPERS) is soliciting proposals to amend any of the public employee retirement systems. A general mailing has been made to all holdover senators, unopposed legislators, and other interested persons and organizations asking that all retirement proposals being contemplated for the 1995 Legislative Session be submitted to the CPERS for review prior to the session.

Committee to Provide Coordination and Consistency...The Legislature established CPERS to review all retirement proposals prior to formal consideration during a legislative session to help ensure a coordinated and consistent approach to addressing retirement issues.

About 45 to 50 retirement bills are introduced each legislative session. Many times, when a benefit enhancement is granted to members of one system, members of another retirement system ask for a similar enhancement the next session. This has been referred to as the "leapfrogging effect".

Furthermore, once a benefit enhancement has been granted, the benefit may not be taken away, so if the cost is too great, the

Legislature cannot go back and change the law, except for new members. This is referred to as the "ratcheting effect".

Another issue is the sufficiency and equity of benefits for members of the public employee retirement systems. Plan members have legitimate benefit needs that need to be brought to the Legislature and that deserve careful and thorough consideration, which is sometimes difficult in the hectic environment of legislative sessions.

Proposals to Be Submitted by November 25...Retirement proposals should be submitted to CPERS, care of Sheri Heffelfinger at the Legislative Council, as soon as possible, but no later than November 25, 1994. Earlier submissions are encouraged!

The CPERS will begin reviewing and holding meetings and hearings on received retirement proposals when Chairman Senator Bianchi determines there are enough proposals to justify a CPERS meeting. It is anticipated that CPERS' heaviest work load will begin after the November elections and before the start of the 1995 Session.

For further information, please contact Sheri Heffelfinger at the Legislative Council, 444-3064.

LEGISLATIVE AUDIT COMMITTEE

Committee to Meet in June...The Legislative Audit Committee is scheduled to meet June 23 in Room 104 of the Capitol. The following reports are tentatively scheduled to be presented.

FINANCIAL-COMPLIANCE AUDITS:

- Montana Single Audit Report
- Department of Commerce
- Department of Family Services
- Department of Justice, including Crime Control Division and Highway Traffic Safety Division
- Billings, Butte, Great Falls, Helena, and Missoula Vocational-Technical Centers

PERFORMANCE AUDIT:

- Water Development and Renewable Resource Development Programs, Department of Natural Resources and Conservation

EDP AUDIT REPORTS:

- The University of Montana
- Department of Labor and Industry, Unemployment Insurance Applications

WATER POLICY COMMITTEE

Committee Holds Public Meeting...The Water Policy Committee held a public meeting on May 23 in Glasgow on the Late Claims Study. The Committee received public comment on Senate Bill No. 310 and solicited comments on how the law might be improved. The Committee will present its findings and any recommendations to the Legislature in 1995. A summary transcription of this portion of the meeting is available.

Committee to Formulate Recommendations...The Committee requested a brief review of the testimony received to date on the Late Claims Study as well as a memo reviewing options for Study completion. This memo will be reviewed by the Committee prior to the next meeting. The Committee is expected to make preliminary recommendations regarding the Late Claims Study at its next meeting to ensure an adequate opportunity for public involvement.

Committee Reviews Work Plan...The Committee also reviewed its 1993-94 Interim Work Plan and directed staff to prepare a written update on selected issues. This update will be sent to Committee members prior to the next meeting, and Committee members will indicate which issues deserve further analysis.

To Meet Again in August...The next Water Policy Committee meeting is scheduled for Thursday and Friday, August 18 and 19. The location of this meeting will be announced in mid-June.

For more information on these issues, please contact the EQC staff at 444-3742.

ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in May... The Environmental Quality Council (EQC) met on Friday, May 6 in the State Capitol. A number of issues were discussed.

Hazardous Waste Management Study...The EQC's Hazardous Waste Management Working Group held a meeting on May 12 and 13. The first day focused solely on issues related to hazardous waste management by conditionally exempt small quantity generators (CESQGs). The group heard presentations from MSU Extension Service on the status of education programs for CESQGs and from hazardous waste transporters on problems associated with collection and disposal in rural areas. The second day's agenda included discussion of a final report from the siting subcommittee, continued analysis of the status and adequacy of the hazardous waste regulatory framework, and discussion of possible recommendations regarding CESQG's.

The next Hazardous Waste Management Working Group meeting is scheduled for Wednesday, June 29, 9:00 a.m. in the DNRC Director's Conference Room. For more information on this issue, please contact Paul Sihler or Todd Everts at 444-3742.

SJR 29 Nondegradation Study...The EQC continued its look at specific water quality nondegradation issues as requested under SJR 29. The Joint EQC/WPC SJR 29 Nondegradation Subcommittee met on May 5 and made recommendations to the full EQC regarding the revised DHES nondegradation rule package and nondegradation mitigation issues. For a copy of the Subcommittee recommendations, please contact Subcommittee staff, Michael S. Kekuk, at 444-3742.

The next Joint Subcommittee meeting will begin at 12:00 p.m., Monday, June 13 in Room 108 of the State Capitol. Agenda items include continued analysis of mandatory mitigation, mitigation banking, and an initial look at the unquantified impacts of self-determinations of nonsignificance. The Subcommittee will again report back to the full EQC with recommendations.

Regulatory Enforcement...The EQC also continued its look into agency enforcement of environmental regulations. The EQC decided to expand the focus of the analysis from the Water Quality Act and address larger public policy issues. The EQC will devote one-half day of its next meeting to discussing the scope of the study.

Other Issues...Other agenda items included a staff report by the Collaborative Working Group on transportation energy policy development; an update on the bull trout issue; a staff-facilitated EQC discussion on

MEPA and the cumulative impacts analysis; and a tour of the Capitol building as part of the building renovation project.

Next Meeting...The next EQC meeting will begin at 9:00 a.m., Monday, June 20 in Room 104 of the State Capitol.

For more information on these issues, please contact the EQC staff at 444-3742.

STATE BULLETIN BOARD

Beginning immediately, all notices and agendas of meetings of statutory and interim committees will be posted on the state bulletin board. Beginning June 1, the INTERIM CALENDAR will also be posted on the state bulletin board and updated weekly. For further information about the state bulletin board, please contact the Information Services Division, Department of Administration, 444-2700.

THE BACK PAGE

Since its passage last November, the North American Free Trade Agreement (NAFTA) has generated tremendous controversy up and down the North American continent. In the United States, organized labor and groups favoring strict environmental rules and regulations fear that NAFTA will provide American companies an incentive to move their factories to Mexico in order to take advantage of lower wages and lax environmental rules. Opposition political parties in Canada and Mexico perceive NAFTA as an instrument of American economic imperialism, and that the agreement will boost the profits of giant corporations at the expense of wage-earners and the unemployed.

In Montana, the controversy surrounding NAFTA has focused on the grain trade between the United States and Canada. This month's "The Back Page", analyzes the recent grain trade imbroglio.

ROAD WORK AHEAD: MONTANA'S COMING ENCOUNTERS WITH NAFTA by Stephen B. Maly

THE ARRIVAL OF NAFTA

Last November the Congress passed the North American Free Trade Agreement (NAFTA). The agreement was heralded as an historic achievement that would usher in a new era of continent-wide prosperity. The centerpiece of NAFTA is the phased-in removal of tariffs and other trade barriers between the United States, Canada, and Mexico. For the most part, the anticipated benefits of the complex package are still on the horizon. Although NAFTA's supporters portray the accord as a "win-win" option for producers and consumers in all three countries, they acknowledge that it will require difficult and sometimes painful adjustments on the part of some import-sensitive industries. Lower trade barriers mean greater access to foreign markets, but also increased competition from foreign suppliers. Moreover, the benefits from liberalized trade are diffuse, and spread unevenly across the transnational community, whereas the harshest impacts are highly concentrated, disproportionately affecting producer groups in marginal or disadvantaged areas.

For interior states like Montana, located near the geographic center of the continent and traditionally reliant on raw commodities and natural resource

product exports, NAFTA can be a vehicle to help bring about economic diversification. We find ourselves at a crossroads; many of the signs point toward promising but uncertain rewards, others signal coming collisions with historically friendly neighbors and competitors.

For some businesses, some wage earners, and some commodity producers, NAFTA spells brighter and broader horizons, new opportunities to export manufactured goods, professional services, and semi-processed or even finished (value-added) natural resource products. The agreement has helped stimulate detailed analysis by Dr. Larry Swanson at the University of Montana's Bureau of Business and Economic Research of Montana's place in an emerging Rocky Mountain trade corridor. Swanson and others envision an enhanced highway system linking western Canadian cities such as Edmonton, Calgary, and Regina, Saskatchewan with Salt Lake City and Denver, and ultimately with metropolitan areas in northern and central Mexico. Not everyone in Montana regards more heavy truck traffic and more lumbering RVs on "our" roads as a positive thing, but the prospect of increased trade-flows between distant urban centers has some firms inside and outside Montana excited about the opportunity to build warehousing, grain handling, and other transportation-related installations at commercially strategic locations along the corridor. Seen in this light, NAFTA is a welcome challenge, one in which the potential benefits appear to far outweigh the costs.

Freer trade in agricultural products and other subsidized industries is always problematic. For the past 10 years, imports of Canadian lumber have drawn the most critical attention in the Pacific Northwest and western Montana. Since 1992, the U.S. has been collecting duties on Canadian lumber on the presumption that it is unfairly subsidized. A binational dispute resolution panel recently ruled that the subsidies in question do not injure U.S. producers, but the U.S. government has challenged this finding. In recent months, the focus has shifted to wheat and barley. For a number of northern Montana grain growers, NAFTA has already arrived, with truckloads of trouble in tow.

THE GRAIN TRADE IMBROGLIO

Here's the situation in a nutshell. Imports of Canadian wheat and barley have ballooned from an average 1 million metric tons in 1990-92 to an expected 2.5 million metric tons this year. The explanation for the increase includes a surge in domestic demand, partly on account of Midwest floods; short supplies of high quality durum, the result of export subsidies and USDA set-aside programs; and the exchange rate. Another reason for the higher volumes is that Canada is allegedly using unfair trade practices.

Last January several dozen grain farmers from Shelby, Cut Bank and Conrad organized demonstrations, and later blockades, against extraordinarily large volumes of wheat arriving by truck from Canada. These actions inspired similar protests in North Dakota. A contingent of Montana farmers traveled to Washington, D.C. to try to convince Agriculture Secretary Mike Espy to impose immediate restrictions on imports of Canadian wheat and barley. As grassroots political pressure mounted for immediate relief, members of Congress demanded action from the Clinton Administration. The U.S. International Trade Commission (ITC) launched an investigation of alleged unfair trade practices on the part of Canada. As part of this process, and under overt pressure from Senator Max Baucus and others members of the U.S. Senate, the ITC held field hearings in Bismarck, North Dakota and Shelby, Montana.

Nearly 600 people attended the hearing in Shelby, including Senators Max Baucus and Conrad Burns, Representative Pat Williams, and Governor Marc Racicot. Except for two witnesses--a Canadian resident and an executive from an Oregon-based grain elevator company--the persons who gave testimony all claimed that imports of Canadian grain were ruining local markets by depressing prices, clogging storage facilities, and overburdening the rail transportation system. Farmers and politicians alike called for emergency import restrictions under Section 22 of the Agricultural Adjustment Act. (Section 22 is a provision of a 1933 farm law that allows the United States to apply sanctions if imports from another country are found to materially hurt U.S. farm programs.)

A USDA study indicates that imports of Canadian wheat have increased deficiency payments by nearly \$700 million over the past four years, so there's a *prima facie* case against the Canadians. However, other federal trade officials point out that wheat imports represent a tiny portion of grain stocks in Montana and have marginal effects on local prices. Moreover, the ITC and binational panels under the 1989 U.S.-Canada Free Trade Agreement (FTA) have repeatedly exonerated Canada's trade practices. The subsidy of greatest concern to American farmers is Canada's Western Grain Transportation Act (WGTA), which has already been studied by a bilateral panel under the FTA's dispute resolution procedures and found not guilty of conferring a price advantage in U.S. markets. Moreover, the WGTA does not apply to grain moving south across the border in trucks. Americans also claim that the Canadian Wheat Board (CWB) is a government monopoly that dumps wheat into the U.S. market at prices below production costs. The CWB is not funded by Canadian taxpayers, but through producer fees. Its sole function is to find the best prices for Canadian farmers' grains. Because the Board is a business, and not a crown corporation or government agency, it is not required to publicize its selling prices.

Why the large increase in the volume of shipments across the border? There are a number of market forces at work, among them a shortage of domestic feed grains owing to Midwestern floods, an unusually high currency exchange rate making Canadian sales in the U.S. market unusually rewarding, and the preferences of U.S. mills and pasta makers. According to experts from Alberta, American pasta makers prefer Canadian grading and certification standards because they offer more assurance of high quality deliveries. The U.S. wheat is often just as good, and at times even better, but the grading system is geared to high volumes.

A recent study for the National Grain Trade Council and the National Pasta Association indicates that imports have not interfered with U.S. farm programs and that the market effects are minuscule compared to those of U.S. export subsidies. These groups also maintain that the billion dollar U.S. Export Enhancement Program (EEP) is the real culprit in the current spat, because it makes overseas sales more lucrative for U.S. growers than selling wheat in the home market. The EEP, in effect, creates a high price island for Canadian grains. The geographic proximity of growers on the southern Canadian prairies and the consistent high quality of their product makes them natural suppliers.

The grain elevator companies, the large trading companies, the flour mills and pasta makers, the railroads and trucking companies all favor NAFTA. Most domestic grain farmers are against it, for the moment. It's a classic case of commodity producers in a trade-sensitive region pitted against marketers, distributors, manufacturers, and, to a large degree, consumers in several countries.

There are currently two separate efforts underway to determine the extent of unfairness in Canada's practices and to recommend action. The ITC's investigation has already been mentioned. In April, after months of on-off negotiations over a variety of bilateral agricultural trade issues, U.S. Trade Representative Mickey Kantor announced his decision to invoke article 28 of the freshly minted GATT accord. The stage is set for a major showdown this July. The six month ITC investigation will conclude then; if it finds sufficient evidence of predatory pricing and trade distorting subsidies, the Commission may recommend that President Clinton impose temporary import restrictions. Under the GATT procedures, the president can act unilaterally, without the benefit of the ITC's findings. Furthermore, the GATT-mandated trade sanctions are more permanent, and allow Canada to request compensatory measures in other trade sectors. Under Section 22, restrictions can be immediate, but they are temporary, contingent on Canada's actions to stop damaging U.S. farm programs.

The Canadian government has vowed to resist punitive action with retaliatory measures of its own, including tariffs on such products as fruit, vegetables, wine, and other unspecified products. Canadian producer

groups are also gearing up for a fight. Following the example of Montana grain farmers, British Columbia fruit growers plan to mount blockades against Washington state apples.

It's important to keep the grain trade crisis in perspective.

Some of the states whose agricultural producers complain most about Canadian exports depend heavily on the Canadian market for their own foreign sales. Slightly more than half of Montana's total exports and nearly two-thirds of North Dakota's go to Canada. Montana's exports to Canada have grown by ten percent each year since the bilateral FTA entered into force. Canadian firms have an active presence in the state's mining industry, employing over 1500 high-wage workers. Over one million Canadian tourists visit Montana each year. Moreover, getting back to agribusiness, some northern Montana farmers are taking advantage of the favorable exchange rate and buying machinery and equipment at a considerable discount across the border.

The United States enjoys a favorable balance of trade in agricultural products. The amount of Canadian wheat exported to the U.S. in the 1992-93 market year was equal to about 2 percent of total U.S. production. Though larger, the amount exported this year (1994) will still be less than 4 percent of U.S. production. Canada is the largest and fastest-growing market for processed U.S. grain products. Canadians purchase over 60 percent of all exported American bakery goods and nearly 85 percent of U.S. pasta exports. While the value of Canadian grains exports to the U.S. increased by 155 percent between 1988 and 1992, U.S. exports of grain products to Canada over the same period rose by 146 percent. The distinction between types of exports is significant: Canada is selling raw commodities; the U.S. is selling processed and packaged food products. Alberta officials say they will actively solicit the relocation of U.S. pasta firms to the province if restrictions are placed on exports of Canadian wheat.

There is a positive side to the wheat and barely dispute. Grain marketing firm representatives suggest that the influx has and will continue to stimulate exports to hitherto unaccessed markets in the Southwest, California, and Mexico. Within a decade, Mexico's demand for wheat has increased from 560 metric tons to over 1.3 million metric tons. With improved transportation infrastructure, at least some of this growing market could be supplied by Montana producers.

It's difficult to tell whether NAFTA will compel state lawmakers and executive branch policymakers to take action in the upcoming legislative session. Governor Racicot established a Trade Advisory Council last year to analyze and promote ways the state can capitalize on NAFTA. The state Senate Committee on Transportation held a hearing in Shelby to look into the cost burdens and economic opportunities associated with

Canadian trucks using Montana roads en route to grain elevators and loading facilities. It's possible that proposals will be launched to offer tax incentives to warehousing companies, to extend weight limit exemptions, to fund highway expansion, to request that U.S. and Canadian federal authorities establish more 24-hour border stations, and to push the private sector toward direct transborder air links and improved north-south rail service.



INTERIM CALENDAR

JUNE

June 3, Subcommittee on School Revenue, Room 108, 9:00 a.m.

June 6, State Housing Task Force, Room C-209, Cogswell Building,
10:00 a.m.

June 9, Legislative Finance Committee, Subcommittee on Review of
Dedicated Revenue Provisions and Statutory Appropriations, Room
108, 8:00 a.m.

June 9, Legislative Finance Committee's Subcommittee on the
Realignment of Joint Appropriations Subcommittees, Room 437,
9:00 a.m.

June 9, Legislative Finance Committee, Room 108, 1:00 p.m.

June 10, Legislative Finance Committee, Room 108, 8:00 a.m.

June 10, Subcommittee on Workers' Compensation Alternatives, Room
104, 10:00 a.m.

June 13, EQC/WPC Nondegradation Subcommittee, Room 108, 12:00
p.m.

June 20, Administrative Code Committee, Room 108, 9:00 a.m.

June 20, Environmental Quality Council, Room 104, 9:00 a.m.

June 23, Legislative Audit Committee, Room 104

June 24, Subcommittee on Insurance Issues, Room 104, 9:30 a.m.

June 29, EQC Hazardous Waste Management Working Group, DNRC
Director's Conference Room, 9:00 a.m.

June 30, Subcommittee on Veterans' Needs, Room 104, 9:00 a.m.

JULY

July 4, Independence Day, holiday

July 13, Judicial Unification and Finance Commission, Room 325,
10:00 a.m.

AUGUST

August 18 and 19, Water Policy Committee

Montana Legislative Council
State Capitol Room 138
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